

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

SEPTEMBER 10, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 96-0100-FT

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

BYRON R. YOUNGREN,

Plaintiff-Appellant,

v.

**CURTIS L. PAULSRUD and
PATRICIA A. PAULSRUD,**

Defendants-Respondents.

APPEAL from a judgment of the circuit court for Eau Claire County: ERIC J. WAHL, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Byron Youngren appeals a judgment that dismissed his lawsuit against Curtis and Patricia Paulsrud.¹ The trial court ruled that the six-year contract statute of limitations barred Youngren's lawsuit

¹ This is an expedited appeal under RULE 809.17, STATS.

seeking damages for the Paulsruuds' default on their 1989 promissory note. Youngren claimed that the Paulsruuds issued the 1989 note in exchange for a satisfaction of judgment he issued releasing a previously obtained judgment. While Youngren filed his complaint alleging the recorded satisfaction of judgment was forged within the six-year statute of limitations, he neglected to seek enforcement of the promissory note until he sought to amend the complaint after the statute of limitations had run. His original complaint sought only to expunge his satisfaction on the ground that the Paulsruuds had forged his name to it. He did not seek damages for the note. His amended complaint sought such damages and dropped the expungement request.

The trial court ruled that the claim on the note did not "relate back" to the time of the filing of the original complaint. On appeal, Youngren argues that his amended complaint did relate back and therefore did not violate the six-year contract statute of limitations. We reject this argument and therefore affirm the judgment.

Youngren's amended complaint did not relate back to the date of the original complaint. A claim asserted in an amended complaint relates back to the date of the original complaint if the claim arose out of the transaction, occurrence, or event set forth or attempted to have been set forth in the original complaint. Section 802.09(3), STATS. This often depends on whether the defendant would have had adequate notice of the subsequent claim from the original complaint. See *Biggart v. Barstad*, 182 Wis.2d 421, 430, 513 N.W.2d 681, 684 (Ct. App. 1994). An amended complaint will not relate back to the date of the original complaint whenever the amended complaint contains an alteration of such magnitude that it deprives the defendants of fair and adequate notice of the nature of the new claim. *Id.* at 429, 513 N.W.2d at 684.

Notice of a suit to set aside a judgment satisfaction would not supply a reasonable person fair notice of a claim based upon a note. While they superficially concern the same event, both pleadings fundamentally are distinct in time, place, and character. The first asserts a clandestine falsification of court files, the second a simple breach of contract. Because the original action would not provide the Paulsruuds notice that Youngren was seeking to enforce the promissory note, the claim did not relate back to the date of the original complaint. The trial court correctly barred Youngren's lawsuit under the six-year contract statute of limitations.

By the Court. – Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.